

Exemption No. 8157

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
RENTON, WASHINGTON 98055-4056**

In the matter of the petition of

Associated Air Center

for an exemption from §§ 25.785(d), and
25.813(e), of Title 14, Code of Federal
Regulations

Regulatory Docket No. FAA-2003-15575

GRANT OF EXEMPTION

By letter dated July 2, 2003, Mr. Richard McFadden, Certification Director, Associated Air Center, P.O. Box 540728, Dallas, Texas 75234, petitioned for an exemption from the requirements of §§ 25.785(d) and 25.813(e) of Title 14, Code of Federal Regulations (14 CFR). The petitioner has requested the exemption to waive the requirements for firm handholds in the aisle and permit the installation of interior doors between passenger compartments on a Boeing Model 767-200 airplane, having serial number 33685.

The petitioner requests relief from the following regulation:

Section 25.785(d) Amendment 25-32 – Requires that there be a firm handhold to enable occupants to steady themselves when using the aisle(s) in moderately rough air.

Section 25.813(e) Amendment 25-46 – Prohibits the installation of doors between passenger compartments.

The petitioner's supportive information is as follows:

BACKGROUND

Associated Air Center requests that the relief previously provided for the following listed airplanes relative to flight attendant seat locations, firm handholds along each aisle, and interior doors between passenger compartments, also be provided to a Boeing model 767-200 airplane, having serial number 33685:

Exemption No. 6881, Docket No. 29302, Partial Grant of Exemption from §§ 25.785(h)(2), 25.813(e), and 25.853(d) for Boeing Model 777-200 airplane.

Exemption No. 7317, Docket No. 30023, Partial Grant of Exemption from §§ 25.785(h)(2), 25.785(j), 25.813(e), and 25.853(d) for Boeing Model 777-200 airplane.

Exemption No. 7317A, Docket No. FAA-2001-8606, Partial Grant of Exemption from §§ 25.785(h)(2), 25.785(j), 25.813(e), and 25.853(d) for Boeing Model 777-200 airplane.

DISCUSSION

The Federal Aviation Regulations (FARs) do not consider the situation of private use, not-for-hire transport category airplanes in the FAR 25 requirements. Those requirements are predicated on airline common carrier, commercial passenger operations carrying fare paying passengers from the general public. Associated Air Center believes that the design of an airplane for private use, and the associated operation of the airplane in private use, should justify an exemption, based on the fact that the FARs do not currently cover or consider such design and operation and that a new view of such designs and operations is needed by the FAA. In addition, Associated Air Center has proposed alternative requirements to provide an appropriate level of safety for the intended use of the airplane and for the airplane's occupants.

The FAA position is that the Partial Grant of Exemption listed above for the Boeing Model 777-200 and -700 with flight attendant seats that do not provide direct view, not requiring a firm handhold along each aisle, and interior doors permitted with provisions should also be granted to the Boeing Model 767-200 airplane Serial Number 33685. The airplanes have approximately the same cross section (wide body). These type airplanes can be considered one of the larger private use airplanes.

Considering the smaller number of occupants in the business, private airplane, usually less than 30% of that of a traditional commercial configuration, and the familiarity of the flight and cabin crews with the specific airplane, its passengers and its interior arrangement, and the wording of the existing rule that places the emphasis for safety on the proximity of the exit to the attendant over the ability of the attendant to view the cabin area, there should be no degradation in the passenger safety as a result of this requested exemption from §25.785(h)(2). It is worthwhile to note that if the Boeing 767-

200 is configured for 19 passengers, under Part 91, no flight attendant would be required and, therefore, no direct view requirement would be in effect.

Customers are buying large airplanes because they wish to create the spacious and impressive atmosphere they are used to. The requirement for a firm handhold along aisles cannot be met for certain areas in the passenger cabin due to wide open spaces between individual seat backs which typically provide an adequate handhold. With the cabin spaciousness, there is a readily identifiable “aisle” throughout. Any construction hanging down from the ceiling would ruin the appearance of the high quality interior and is not acceptable to the customer.

Private areas or conference rooms will often need to span the whole cabin in order to be practical. For such arrangements, privacy can only be provided by means of doors, and, therefore, an exemption is needed to allow full use of airplane capabilities without compromising safety for those onboard. All passengers are equally important, wherever they are located.

BASIS FOR EXEMPTION

As stated in Exemption No. 6881, 7317, and 7317A, the FAA is aware that the precedent has been established for other private use wide body airplanes to be exempted from flight attendant direct vision requirements, handholds along main aisles, and equipped with interior doors.

EXEMPTION WILL BE IN THE AMERICAN PUBLIC INTEREST

Approval of this request for certain exemptions for the Boeing Model 767-200 when configured for business jet applications, and operated under FAR Part 91 or Part 125, is in the public interest of the people of the United States of America.

1. Given the proliferation of Executive Configured Transport Category Airplanes currently taking place, and anticipated in the near future, approval of these exemptions will enable the United States manufacturers of these airplanes to effectively compete in this expanding market.
2. Additional sales of United States manufactured airplanes outside of the traditional airline market and completion of many of them at United States owned and operated Aircraft Completion Facilities, will serve to increase the profitability of these manufacturers and their supplying and supporting companies.
3. Stability and improved financial performance of these United States companies gives greater job stability to the workers employed by the companies, causing a stabilizing influence on the United States economy, due to the consumer spending activities associated with stable workers.

4. Improved financial performance of United States corporations and increased work force stability translates to continued and improved local, state, and federal tax revenues, which in turn add to the stability of the total United States economy.
5. Improved financial performance allows United States corporations to continue to invest in Research and Development allowing the United States to maintain or improve its competitive position in the world economy.
6. A large number of these types of airplanes will probably be sold to “offshore” clients, improving the United States balance of trade.
7. Since the passengers aboard these airplanes will not be revenue-paying customers of the airlines, there can be no degradation of airline passenger safety, and, therefore, no detrimental impact on the public at large. It is interesting to note that the only commenters for the NPRMs were modification centers and customers who strongly support the initial petition.

CONCLUSION

In consideration of:

1. Exemption No. 6881: the FAA found that a partial grant of exemption was in the public interest and did not adversely affect the level of safety provided by the requirements. Therefore, pursuant to the authority contained in 49 U.S.C. 40113 and 44701 the Administrator granted Raytheon E-Systems an exemption from the requirements of Title 14 CFR Parts 25.785(h)(2) and 25.813(e) for relief from the requirements that flight attendant have direct vision of the cabin and allow installation of interior doors between passenger compartments, with provisions for Boeing Model 777-200.
2. Exemption No. 7317: the FAA found that a partial grant of exemption was in the public interest and did not adversely affect the level of safety provided by the requirements. Therefore, pursuant to the authority contained in 49 U.S.C. 40113 and 44701 the Administrator granted Lufthansa Technik an exemption from the requirements of Title 14 CFR Parts 25.785(h)(2), 25.785(j) and 25.813(e) for relief from requirements that flight attendants have direct vision of the cabin, a “State Room” that does not provide firm “handholds” in the aisle, and allow installation of interior doors between passenger compartments, with provisions for Boeing Model 777-200.
3. Exemption No. 7317A: the FAA found that a partial grant of exemption was in the public interest and did not adversely affect the level of safety provided by the requirements. Therefore, pursuant to the authority contained in 49 U.S.C. 40113 and 44701 the Administrator granted Lufthansa Technik an exemption from the

requirements of Title 14 CFR Part 25.785(j) that the area of the state room, medical room, master bedroom, private office, and the first class sleeper that do provide firm “handholds” in the aisle for Boeing Model 777-200.

Associated Air Center seeks the same relief with the same provisions for the Boeing Model 767-200 S/N 33685 airplane. Granted provisions as described in Exemptions listed above with the following provisions:

1. The airplane is not operated for hire, or offered for common carriage.
2. A majority of flight attendant seats must be oriented to face the passenger cabin.
3. The interior is installed per Interior Arrangement Drawing No. 2035250401 (Floorplan).
4. Each door between passenger compartments must be frangible.
5. Each door between passenger compartments must have a means to signal to the flight crew when the door is closed. Appropriate procedure/limitations to ensure that takeoff and landing is prohibited, when any such door is not in the proper takeoff and landing configuration, must be established.
6. Each door between passenger compartments must have dual means to retain it in the open position, each of which are capable of reacting to the inertia loads specified in FAR Part 25.561.
7. Doors installed across a longitudinal aisle must translate laterally to open and close.
8. When doors are installed in specified egress paths, each passenger must be informed. This notification is only required prior to the first time a person is a passenger on the airplane.

Waiver of Notice and Public Procedure

The FAA has determined that good cause exists for waiving the requirement for Federal Register publication and comment because the exemption, if granted, would not set a precedent and any delay in acting on this petition would be detrimental to Associated Air Center.

The FAA's analysis/summary is as follows:

The petitioner requested an exemption from § 25.785(h)(2), Amendment 25-72, pertaining to direct view of the passenger cabin by flight attendants. However, the certification basis of the Boeing Model 767-200 does not include this requirement. Therefore, no exemption from this requirement is needed.

The petitioner requested an exemption from § 25.785(j), Amendment 25-72, that requires firm handholds in the main aisle(s) in the passenger cabin. However, for the certification basis of the Boeing Model 767-200, the requirement for firm handholds in the main aisle(s) in the passenger cabin is in § 25.785(d), Amendment 25-32. Therefore, the exemption is for § 25.785(d), Amendment 25-32.

As noted by the petitioner, there are differences between operation of transport category airplanes for commercial and for private use; these differences warrant consideration of the appropriate level of safety. The FAA is giving considerable attention to the issues raised when transport category airplanes are operated for private use. In evaluating the differences between operations for commercial and private use, the FAA has identified several regulatory requirements—including those which are the subject of this petition—that may need to be revised to address the safety issues revealed by these differences. The FAA is currently reviewing the adequacy of the current regulations and in the future may propose revisions to the requirements, where appropriate.

The petitioner requests an exemption from the handhold requirements of § 25.785(d) for the Boeing model 767-200 airplane whose interior is configured for private use. The FAA has considered the requirement for firm handholds in the context of private use airplanes. For such airplanes, which commonly have state rooms, offices, large lavatories, and lounge areas, the requirement to have a firm handhold would be impractical. The arrangement that the petitioner has proposed does not provide firm handholds; however, they do provide an acceptable level of safety for an airplane in private use.

The current regulations allow the installation of interior doors, provided that passengers are not seated on both sides of the door during takeoff and landing. The FAA has concerns regarding the safety of doors located between passengers and the exits. The FAA has proposed to prohibit such installations in future designs, as detailed in Notice of Proposed Rulemaking 96-9 (61 FR 38551, July 24, 1996). However, until the regulations are revised, such doors may continue to be installed without the need for an exemption. In addition, the FAA has recently issued exemptions for private use airplanes that would permit the installation of doors between passenger compartments, provided that certain limitations are met. The petitioner has proposed most of these limitations as part of this petition.

This issue is clearly significant to the operator of this airplane. The flexibility to partition the airplane in various locations is regarded as paramount to an acceptable interior. The availability of private meeting space is essential. The FAA acknowledges the desirability of this feature from the operator's point of view.

The petitioner has proposed doors at the entrances to the state room and the guest room office. These doors are (1) in rooms that are not the complete width of the airplane, i.e., there is an aisle on the outside of the room), (2) in rooms that may be occupied during take-off and landing, and (3) in locations where only the occupants of the room must use the door to reach an exit. The petitioner requests this exemption, with the recognition of the potential change in the level of safety. The FAA has concluded that the limitations listed below will produce an adequate level of safety.

With respect to the integrity of the means used to latch doors open for takeoff and landing, the FAA considers that redundant means are necessary. Each latching means should have the capability of retaining the door in the takeoff and landing position under the inertia forces of § 25.561. In addition, the FAA believes that the door must be frangible, in the event that it is closed or closes during an emergency landing. Frangibility may be demonstrated in accordance with the criteria set forth in Advisory Circular 25-17, Transport Airplane Cabin Interiors Crashworthiness Handbook, paragraph 43.b (2). Also these doors must be in the open position during taxi, take-off and landing only when the room is occupied.

With respect to the possibility that a door will remain closed when it should not be, the FAA believes that a higher level of awareness is required to address this issue. Due to the relative complexity of the cabin interior, the FAA does not believe that inspection by flight attendants prior to takeoff and landing is sufficient to verify that interior doors are in their proper position. Consequently, some type of remote indication is considered necessary. The petitioner's proposal to provide remote indication to the flight crew is considered adequate.

The FAA has concluded that the installation of interior doors that span the main cabin aisle can be allowed with certain limitations. In order to maximize the level of safety, the FAA will require that certain limitations be made mandatory to permit such installations. The FAA will require that the doors installed across the main cabin aisle open and close in a transverse direction. That is, the direction of motion of the door must be at a right angle to the longitudinal axis of the airplane. A "pocket door" is one example of such a design. This will tend to minimize the chance that the inertia forces of an accident could force the door closed. These conditions will assure an adequate level of safety in private aircraft operations.

In consideration of the foregoing, I find that a grant of exemption is in the public interest and will not adversely affect the level of safety provided by the regulations. Therefore, pursuant to the authority contained in 49 U.S.C. 40113 and 44701, delegated to me by the Administrator, the petition of Associated Air Center, for an exemption from the requirements of 14 CFR 25.785(d), amendment 25-32, that requires a firm handhold be provided in the aisles and 14 CFR 25.813(e), amendment 25-46, to allow installation of interior doors between passenger compartments, on the Boeing model 767-200, serial number 33685, is hereby granted, with the following limitations:

1. The interior configuration is limited to that described by Associated Air Center Drawing No.2035250401 for the Boeing Model 767-200 airplane having serial number 33685.

2. The airplane is not operated for hire or offered for common carriage. This limitation does not preclude the operator from receiving remuneration to the extent consistent with 14 CFR part 125 and 14 CFR part 91, subpart F, as applicable.

3. Each door between passenger compartments must be frangible.

4. Each door between passenger compartments must have a means to signal to the flight crew when the door is closed. Appropriate procedures/limitations must be established to ensure that takeoff and landing is prohibited when such compartments are occupied and the door is closed.

5. Each door between passenger compartments must have dual means to retain it in the open position, each of which must be capable of reacting the inertia loads specified in 14 CFR 25.561.

6. Doors installed across a longitudinal aisle must translate laterally to open and close.

Issued in Renton, Washington, on October 17, 2003.

/s/ Ali Bahrami
Manager,
Transport Airplane Directorate
Aircraft Certification Service